

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	Case No. 8:04CR64
)	
Plaintiff,)	
)	
v.)	ORDER
)	
RUSSELL J. FRAUENDORFER,)	
)	
Defendant.)	

This matter is before the court on the defendant's motion for leave to proceed In forma pauperis on appeal. Filing No. 132. The defendant has filed a notice of appeal Filing No. 131, of this court's orders denying his motion to correct a clerical error in judgment and his motion for reconsideration thereof, Filing Nos. 128 and 130. In support of his motion to proceed in forma pauperis, the defendant has also filed a prisoner account statement. Filing No. 133. The defendant's motion to correct the judgment is related to the judgment ordering restitution in his criminal case.

Under the Rules of Appellate Procedure, a party who was permitted to proceed in forma pauperis in district court or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states its reasons in writing. See Fed. R. App. P. 24(a)(3).

This court has previously determined that the defendant was financially unable to obtain an adequate defense in his criminal case. See Filing No. 6. The court finds that there is no indication that the defendant's appeal is not taken in good faith. Since the court does not certify the appeal is not taken in good faith nor find that the defendant is not

otherwise entitled to proceed in forma pauperis, the defendant needs no further authorization to proceed in forma pauperis in this appeal. Accordingly,

IT IS ORDERED that defendant's motion for leave to proceed in forma pauperis (Filing No. 132) is granted.

DATED this 17th day of June, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief District Court Judge